

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

GROUNDHOG ENTERPRISES, INC.
d/b/a MERCHANT LYNX SERVICES

Plaintiff,

-v-

FRONTLINE PROCESSING CORP.,

Defendant.

21-cv-4339 (JSR)

ORDER

JED S. RAKOFF, U.S.D.J.:

Before the Court is the motion of Defendant Frontline Processing Corp. for partial summary judgment. ECF 24. Specifically, Frontline seeks dismissal of Count II, which seeks actual and exemplary damages for fraud, under the Delaware state law doctrines against bootstrapping on an accompanying breach of contract claim and against rehashing breach of contract damages. See ECF 25. Frontline further argues that Plaintiff Groundhog Enterprises Inc. d/b/a Merchant Lynx Services ("Merchant Lynx") has failed to present evidence of Frontline's scienter sufficient for the fraud claim to reach a jury.

The Court has carefully reviewed the parties' written submissions and presentations at oral argument and now issues a "bottom line" order. Specifically, the Court hereby denies Frontline's motion for partial summary judgment. An opinion setting forth the Court's reasoning for this ruling will issue in due course.

Counsel for the parties are directed to place a joint call to Chambers within one week of the entry of this order to set a date for trial.

SO ORDERED.

New York, NY
January 13, 2022


JED S. RAKOFF, U.S.D.J.